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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,782	11/04/2003	Lindsay McDonell	7559.100	5911

7590

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EXAMINER

BOTTORFF, CHRISTOPHER

ART UNIT

PAPER NUMBER

3618

DATE MAILED: 10/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/699,782	MCDONELL, LINDSAY	
	Examiner	Art Unit	
	Christopher Bottorff	3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 04 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-16, 28-39 and 48-55 is/are allowed.
- 6) ☒ Claim(s) 1-4, 17, 19-21, 23-27, 40-47, 56 and 57 is/are rejected.
- 7) ☒ Claim(s) 18, 22 and 58 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/4/03</u>   | 6) <input type="checkbox"/> Other: _____                                    |

EA

## DETAILED ACTION

### *Information Disclosure Statement*

The information disclosure statement (IDS) submitted on November 4, 2003 was considered by the examiner.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 23 and 40-47 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 23 recites the limitation "the open position" in line 2. There is insufficient antecedent basis for this limitation in the claim. For the purposes of examination, "the open position" is interpreted as being the extended position.

Claims 40 and 42 recite "members... (a)(ii), (b)(ii), and (c)(ii)" in lines 43 and 2 respectively. However, (a)(ii), (b)(ii), and (c)(ii) are section headings and not members. Moreover, numerous structures are recited in each of these sections, but none of the structures are designated as "members." As a result, claims 40 and 42 are not clear as to which "members" are recited in lines 43 and 2 respectively.

Similarly, claim 41 recites "member (a)(ii)" in line 2, which is not clear as to which "member" is recited. Also, claim 41 only recites a singular "member," while plural structures are recited in section (a)(ii) of claim 40.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Kidd US 4,057,282.

Kidd discloses a trailer assembly comprising a bed subassembly comprising a plurality of sections 16, 17, 18, 19 and 21, 22, 23, 24, 26 movably coupled to one another for permitting movement between an extended configuration and a folded configuration. See Figures 1 and 3. In the folded configuration, the plurality of sections collectively forms a bottom surface at 16, an upper surface at 21, and surrounding side walls at 17, 18, 19, 22, 23, 24, 26 of an enclosable compartment. See Figure 1. At least one of the sections 21, 22, 23, 24, 26 comprises a closable access member 26 movable between an open position and a closed position for selectively permitting access to and sealing of the compartment, respectively, while the sections are maintained in the folded configuration. See Figure 2.

A wheel subassembly 12 carries the bed subassembly. See Figure 1. A drawbar 13 is coupled to the bed subassembly for permitting towing of the trailer assembly behind a vehicle when the bed subassembly is in both the extended and folded configurations. See Figures 1 and 3.

The wheel subassembly 12 rotates about its center axle and, thereby, is freely rotatable relative to each of the bed subassembly and drawbar. See Figure 2. The drawbar 13 is depicted in Figure 2 as being mounted to pivot about a rear mounting point of the mounting bracket that connects the drawbar 13 to the bed subassembly and, thereby, is freely rotatable relative to the bed subassembly. Thus, the bed subassembly, the wheel subassembly, and the drawbar are freely rotatable relative to one another.

Claims 24-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Harper US 4,786,073.

Harper discloses a trailer assembly comprising a bed subassembly 10, 12, 14 movable between an extended configuration and a folded configuration. See Figures 2 and 3. The bed assembly comprises an intermediate section 12 and forward 10 and aft sections 14. See Figure 2. The intermediate section 12 serves as a first bottom portion in the extended and folded configurations and the forward 10 and aft 14 sections are movably coupled to opposite ends of the intermediate section 12 for serving as second and third bottom portions in the extended position and side walls of a compartment in the folded configuration. See Figures 2 and 3. The forward 10 and aft 14 sections are

in substantially non-overlapping relationship with one another in the folded configuration. See Figure 3.

A wheel subassembly 24 carries the bed subassembly and a drawbar 45 is coupled to the bed subassembly. See Figures 2 and 3.

The wheel subassembly 24 rotates about its center axle and, thereby, is freely rotatable relative to each of the bed subassembly and drawbar. See Figure 1. The drawbar 45 is depicted in Figure 3 as being mounted to pivot about a mounting point of the mounting bracket that connects the drawbar 24 to the bed subassembly and, thereby, is freely rotatable relative to the bed subassembly. Thus, the bed subassembly, the wheel subassembly, and the drawbar are freely rotatable relative to one another.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burris US 4,239,258 in view of Lobner US 5,259,720.

Burris discloses a trailer assembly comprising a bed subassembly. The bed subassembly comprises a forward section 28, 46 comprising a forward section inner surface and a forward gate 46 substantially transverse to the forward section inner

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surface, an aft section 26, 46 comprising an aft section inner surface and an aft gate 46 substantially transverse to the aft section inner surface, and an intermediate section 24 comprising an intermediate section inner surface. See Figure 1. The forward and aft sections are movably connected to the intermediate section between an extended configuration and a folded configuration. See Figures 1 and 2. In the extended configuration, the intermediate section inner surface is interposed between and substantially parallel to the forward section inner surface and the aft section inner surface. See Figure 1. In the folded configuration, the forward and aft section inner surfaces are in substantially transverse relationship to the intermediate section inner surface and the forward, intermediate, and aft sections collectively form an enclosed compartment. See Figure 2. A wheel subassembly 64, 66, 48 rotatably supports the bed subassembly for moving the bed subassembly along the ground when in the extended and folded configurations. See Figures 1 and 3. The wheel subassembly comprises first and second wheels 48 for making contact with and moving across the ground.

Burris does not disclose a wheel mount carriage on which the bed subassembly is rotationally mounted for rotating the bed subassembly at least 90 degrees relative to the wheel subassembly. However, Lobner teaches the desirability of providing a trailer assembly with a wheel mount carriage 18, 19, 20 that mounts wheels 20 and on which a bed subassembly 47 is rotationally mounted for rotating the bed subassembly 47 at least 90 degrees relative to a wheel subassembly. See Figures 1-3 and column 1, lines 14-17 and 55-58. From the teachings of Lobner, providing the trailer assembly of Burris

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with a wheel mount carriage on which the bed subassembly is rotationally mounted for rotating the bed subassembly at least 90 degrees relative to the wheel subassembly would have been obvious to one of ordinary skill in the art at the time the invention was made. This would assist with unloading and loading of the trailer assembly.

Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burris US 4,239,258 in view of Lobner US 5,259,720 as applied to claim 17 above, and further in view of Koch US 6,585,285.

Burris does not disclose a plurality of apertures extending between the inner surface and an outer surface of each of the intermediate, forward, and aft sections. However, Koch teaches the desirability of providing a bed subassembly with a plurality of apertures 102 that extend between inner and outer surfaces. See column 4, lines 49-51. From the teachings of Koch, providing a plurality of apertures between the inner surface and an outer surface of each of the intermediate, forward, and aft sections of Burris would have been obvious to one of ordinary skill in the art at the time the invention was made. This would allow for drainage in the bed subassembly.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burris US 4,239,258 in view of Lobner US 5,259,720 and Koch US 6,585,285 as applied to claim 19 above, and further in view of Browning US 4,126,324.

Burris does not disclose that a cover extends between the forward and aft gates when the bed subassembly is in the open, or extended, position. However, Browning



teaches the desirability of extending a cover 132 between forward and aft gates 86.

See Figure 14 and column 6, lines 15-17. From the teachings of Browning, extending a cover between the forward and aft gates of Burris when the bed subassembly is in the open, or extended, position would have been obvious to one of ordinary skill in the art at the time the invention was made. This would help to protect cargo retained in the trailer assembly from the weather.

Claims 56 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burris US 4,239,258 in view of Koch US 6,585,285.

Burris discloses a bed subassembly comprising a forward section 28, an aft section 26, and an intermediate section 24. See Figure 1. Each section has a respective inner surface and a respective outer surface. See Figure 1. The forward and aft sections 28, 26 are situated on opposite ends of and are movably connected to the intermediate section 24 between an extended configuration and a folded configuration. See Figures 1 and 2. In the extended configuration, the inner surfaces of the forward, aft, and intermediate sections are substantially parallel with one another. See Figure 1. In the folded configuration, the inner surfaces of the forward and aft sections are substantially transverse to the inner surface of the intermediate section. See Figure 2. Also, a wheel subassembly 48 supports the bed subassembly for moving the bed subassembly along the ground. See Figure 1.

Burris does not disclose a plurality of apertures extending between the inner surface and an outer surface of each of the intermediate, forward, and aft sections.

However, Koch teaches the desirability of providing a bed subassembly with a plurality of apertures 102 that extend between inner and outer surfaces. See column 4, lines 49-51. From the teachings of Koch, providing a plurality of apertures between the inner surface and an outer surface of each of the intermediate, forward, and aft sections of Burris would have been obvious to one of ordinary skill in the art at the time the invention was made. This would allow for drainage in the bed subassembly.

***Allowable Subject Matter***

Claims 5-16, 28-39, and 48-55 are allowed. Claims 40-47 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action. Claims 18, 22, and 58 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art does not disclose, teach or suggest the combination of features recited in each of these claims. In particular, independent claims 5, 28, 40, 48, and 54 require the aft section inner surface to be transverse to the intermediate section inner surface in the folded configuration. Thompson US 6,846,003 discloses many of the claimed limitations but provides the aft section inner surface parallel to and spaced from the intermediate section inner surface in the folded configuration in order to attain a more compact arrangement. See Figure 2. Also, Burris provides the aft section inner surface transverse to the intermediate section inner surface in the folded configuration, but lacks further features of the claimed combination.

Furthermore, a drawbar mount rotatably connected to a wheel mount carriage, as defined in claim 18 in combination with the further limitations of claim 17, is not disclosed, taught, or suggested by the prior art. Also, the stabilizing member extending between the apertures, as defined in claims 22 and 58, is not disclosed, taught, or suggested by the prior art.

### ***Conclusion***


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Torrance, Brown, Thackray, Cross, Jager, Stettner, Boyd, and Thompson disclose trailer assemblies.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Bottorff whose telephone number is (571) 272-6692. The examiner can normally be reached on Mon.-Fri. 7:30 a.m. - 4:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher Bottorff